

# 2013 LEGISLATIVE YEAR IN REVIEW

BY SCOTT G. WASSERMAN, ESQ.

For the 2013 legislative session, 1,252 bill draft requests were submitted to the legislative bill drafters. Of these 1,252 bill draft requests, 512 were introduced as Assembly Bills and 522 were introduced as Senate Bills. Of the 1,034 legislative bills, 553 became law. Four joint resolutions proposing amendments to the constitution were filed with the Secretary of State and five additional bills were passed during the 2013 Special Session.

The following summaries of selected 2013 legislation relate to courts, judicial procedure and criminal justice, and are excerpted from the 2013 “Summary of Legislation” published by the Research Division of the Legislative Counsel Bureau. The complete publication covers all topics of legislation of interest to members of the legal community (including, for example, elections, family topics, gaming, insurance, public lands and real property), and is available for purchase through the Legislative Publications Office at the Legislative Counsel Bureau ((775) 684-6835). The full text and complete legislative history of each legislative measure summarized are available at the Nevada Legislature’s website at <http://www.leg.state.nv.us/Session/77th2013/Reports>.

Unless otherwise noted, these measures passed during the 2013 Regular Session became effective on October 1, 2013.

## COURTS AND JUDICIAL/ CRIMINAL PROCEDURES

### **S.J.R. 14 returned from the 2011 Session (File No. 47) Intermediate Appellate Court - Court of Appeals**

Senate Joint Resolution No. 14 proposes an amendment to the Nevada Constitution to create an intermediate appellate court, known as the Court of Appeals, composed of three judges initially appointed to two-year terms by the governor from nominees chosen by the Commission on Judicial Selection.

Following initial appointment, the judges will be elected at the general election to serve a term of six years.

The Court of Appeals will have appellate jurisdiction in civil cases arising from the district courts and in criminal cases within the original jurisdiction of the district courts. The Nevada Supreme Court will fix the appellate court’s jurisdiction and provide for the review of appeals decided by the Court of Appeals. Finally, Nevada’s Supreme Court must provide for the assignment of one or more judges of the Court of Appeals to devote part of their time to serve as supplemental district judges where needed.

This measure was approved in identical form during the 2011 and 2013 Sessions of the Legislature. The proposal will be submitted to the voters for final approval at the 2014 General Election.

### **A.B. 30 (Chapter 107) Community Notification Website**

Assembly Bill 30 specifies that the community notification website, maintained by the Central Repository of Criminal Records, is the source of information available to the public concerning offenders listed in the statewide registry of sex offenders. This measure also removes the requirement that the Central Repository of Criminal Records maintain a log of requests for information from the website, and it provides that the contents of a record of registration are confidential and not subject to inspection by the general public.

This measure became effective on May 24, 2013.

### **A.B. 54 (Chapter 404) Justice of the Peace Fees**

Assembly Bill 54 adopts a revised schedule of fees a justice of the peace must charge and collect on the commencement of actions, the preparation and filing of affidavits and orders, the appearance of defendants, the preparation of transcripts and other actions in justice court.

Assembly Bill 54 requires 25 percent of the portion of these fees payable to the county treasurer to be deposited into a special account for the benefit of the justice courts in the county. The funds in the special account may only be used for the construction of additional facilities; the expansion or renovation of existing facilities; acquisition of equipment, fixtures and furniture; equipment or staff for enhanced security; and certain other items. The bill also requires a county treasurer to, if

necessary, reduce the amount deposited in the special account to ensure that the total fees paid the county treasurer in any fiscal year are not less than the amount paid in Fiscal Year 2012-2013.

Finally, A.B. 54 authorizes a board of county commissioners to impose, by ordinance, a filing fee on the commencement of an action or the filing of an answer in justice court, to offset a portion of the cost of operating a law library in the county.

This measure became effective on July 1, 2013.

### **A.B. 64 (Chapter 289) Presentence Investigation Report**

Assembly Bill 64 authorizes a district court to deliver a copy of a pre-sentence investigation report to the Department of Corrections by electronic transmission or by giving the department electronic access to retrieve the report. The bill also allows the district court to furnish electronic copies of judgments of imprisonment to the sheriff of the county.

This measure became effective on June 1, 2013.

### **A.B. 84 (Chapter 384) Treatment Programs for Veterans and Military Members**

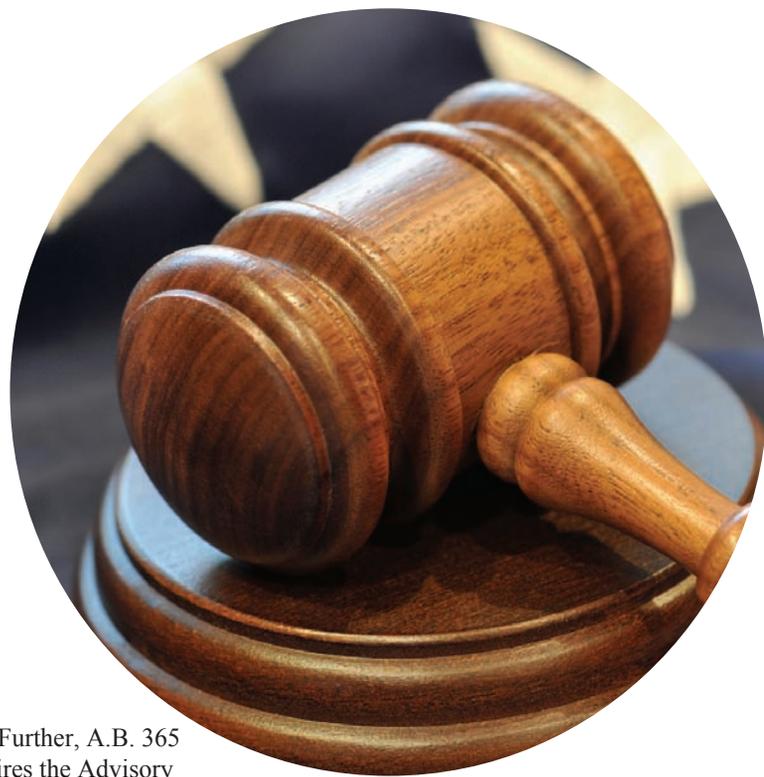
Assembly Bill 84 requires a district court to consider certain information in determining if a defendant is disqualified from participation in a program for the treatment of veterans and members of the military who suffer from alcohol or drug abuse, mental illness or post-traumatic stress disorder. In making its decision, the court must consider the facts and circumstances surrounding the offense, including whether or not the defendant intended to place another person in reasonable fear of bodily harm.

This measure is effective on January 1, 2014.

### **A.B. 365 (Chapter 308) Alternative Court Interpreters**

Assembly Bill 365 requires the Court Administrator to adopt necessary regulations establishing the criteria and procedures for the appointment of alternate court interpreters for persons with language barriers. The bill requires the regulations to express a preference for appointment of a certified court interpreter before an alternate interpreter.

Assembly Bill 365 requires an interpreter to be appointed at public expense for a person with a language barrier who is a criminal defendant or witness, or who is the child, parent, guardian or witness in a juvenile proceeding. This measure also requires the replacement of an appointed interpreter who is not communicating accurately or effectively, if that fact becomes known to the person making the appointment.



Further, A.B. 365 requires the Advisory Committee on the Administration of Justice to appoint a subcommittee to conduct an interim study concerning language access in the courts and to submit a report and any recommendations for legislation for transmission to the 78th Session of the Nevada Legislature and Nevada's Supreme Court.

The measure became effective on July 1, 2013.

### **S.B. 24 (Chapter 50) Article 36 of the Vienna Convention on Consular Relations**

Senate Bill 24 authorizes the Attorney General to establish a program and adopt regulations necessary to assist law enforcement and prosecuting attorneys in complying with Article 36 of the Vienna Convention on Consular Relations.

This bill became effective on July 1, 2013.

### **S.B. 27 (Chapter 319) Actions Against Judicial Officer; Solicitation of Tort Victim**

Senate Bill 27 requires the Attorney General to provide for the defense of a present or former state judicial officer or any other person named as a defendant in a civil action solely because of an alleged act relating to the public duties of a state judicial officer, employee, immune contractor or legislator. The bill imposes a similar duty on the legal representative of a local government concerning the defense of local judicial officers, present or former employees and others named as defendants.

Senate Bill 27 also prohibits the following tort actions, unless the state or local government is named as a party:

1. An action against a local or state judicial officer arising from an act within the scope of the person's public duties; and
2. An action against a defendant arising solely from an act relating to the public duties of a local or state judicial officer, local or state employee, immune contractor or legislator.

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This measure also provides that it is unlawful, in exchange for compensation, to solicit a tort victim to employ an attorney at the scene of a traffic accident or a city or county jail or detention facility, or to conspire with another person to solicit a tort victim in these places.

This measure became effective on July 1, 2013.

## S.B. 106 (Chapter 156) Civil Judgment for Court Fees, Fines, Restitution

Senate Bill 106 authorizes a juvenile court to enter a civil judgment against the child, parent or guardian for the amount due when the court has ordered an administrative assessment, fee, restitution or other payment and the amount is delinquent. However, the bill does not authorize entry of a civil judgment against a child who is under the age of 18 or who is outside the jurisdiction of the juvenile court.

Regardless of whether juvenile jurisdiction or probation is terminated, S.B. 106 grants the juvenile court continuing jurisdiction over any civil judgment entered, and it sets forth provisions on the collection and enforcement of the judgment.

Senate Bill 106 also authorizes a juvenile court to establish a restitution contribution fund and to require a monetary contribution to the fund in an agreement for informal supervision.

Similar to the provisions related to juvenile courts, this measure also authorizes an adult court to enter a civil judgment for a delinquent fine, administrative assessment, fee or restitution, in favor of the state or local entity responsible for collecting. The bill specifies that money from collection fees may be used to hire necessary collection personnel, improve court operations with a self-help center, or provide security for a regional justice center.

This measure became effective on May 25, 2013.

## S.B. 140 (Chapter 79) Retaining Lien for Attorney Fees

Senate Bill 140 provides for the statutory creation, perfection and attachment of a “retaining lien” for attorney’s fees by providing that the rights under such a lien may be adjudicated by a court at the request of the attorney having the lien or any party who has been served with notice of the lien.

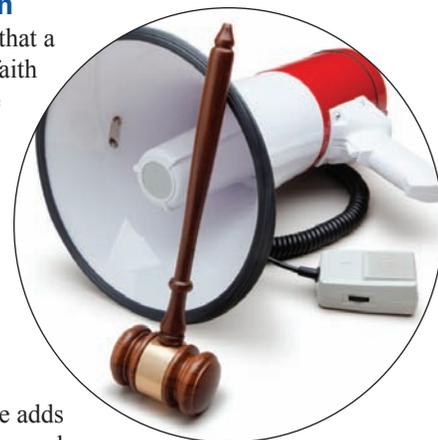
The measure also provides that in any civil action, the lien attaches to any file or other property properly left in the possession of the attorney by the client. The measure clarifies that the lien attaches to copies of the attorney’s file if the original documents received from the client have been returned to the client. Finally, the measure clarifies that a lien for attorney’s fees must not be construed as inconsistent with the attorney’s professional responsibilities to the client.

This bill became effective on July 1, 2013. The provisions apply to any fee for services rendered by an attorney before, on or after the effective date of this measure.

## S.B. 286 (Chapter 176) Civil Actions relating to Free Speech

Senate Bill 286 provides that a person who engages in good faith communication in furtherance of the right to free speech, in direct connection with an issue of public concern, is immune from any civil action for claims based upon that communication. If a civil action is sought and the person who engaged in the communication files a special motion to dismiss, the measure adds a process for the court to follow and provides that a court ruling on the motion must be made within seven judicial days after the motion is served upon the plaintiff.

If a court grants a special motion to dismiss, the measure provides that in addition to reasonable costs and attorney’s fees, the court may award an amount up to \$10,000 to the person against whom the action was brought. If the court denies a special motion to dismiss and finds that the motion was frivolous or vexatious, the measure provides that the prevailing party shall receive reasonable costs and attorney’s fees and may be granted an amount up to \$10,000 and any such additional relief as the court deems proper to punish and deter the filing of frivolous or vexatious motions. Finally, the measure provides that if the court denies a special motion to dismiss, an interlocutory appeal lies to the Supreme Court.



## S.B. 420 (Chapter 265) Subpoenas

Senate Bill 420 authorizes a prosecuting attorney or an attorney for a defendant to issue subpoenas for witnesses to appear before a court for a preliminary hearing. Any subpoena issued by a defendant’s attorney for a preliminary hearing must be calendared by filing a motion that includes a notice setting the matter for hearing not less than two full judicial days after the date on which the motion is filed. A prosecuting attorney may oppose the motion orally in open court. A properly calendared subpoena may be served on the witness unless the court quashes the subpoena.

The measure provides that a peace officer may accept delivery of a subpoena in lieu of service, via electronic means. A person who fails to obey a subpoena to appear for a preliminary hearing shall be deemed in contempt of court. Similar to current provisions providing that a person who fails to obey a subpoena of a court or prosecuting attorney is in contempt of court, the measure also provides that a person who fails to obey a subpoena of an attorney for a defendant is in contempt of court.

## S.B. 463 (Chapter 343) Implementation of the Court of Appeals

Senate Bill 463 provides for the implementation of the Court of Appeals pursuant to the provisions of Senate Joint Resolution No. 14 of the 2011 Legislative Session.

Senate Joint Resolution No. 14 of the 76th Session was approved in identical form by the 2011 and 2013 Sessions of the Legislature. If S.J.R. 14 of the 76th Session is approved by the voters at the 2014 General Election, S.B. 463 is effective on January 1, 2015.

## CRIMINAL JUSTICE

### **A.B. 156 (Chapter 295) Sealing Certain Records**

Assembly Bill 156 provides that a person may not petition the court to seal records related to a felony conviction for driving a vehicle or watercraft under the influence, driving a vehicle or watercraft under the influence resulting in death or substantial bodily harm, vehicular homicide or homicide by watercraft.

Assembly Bill 156 also authorizes a person to petition the court, after the statute of limitations has run, 10 years after the arrest, or pursuant to a stipulation between the parties, for the sealing of all records relating to his or her arrest and proceedings, if the prosecuting attorney declined to prosecute the charges. If the records are sealed, the bill authorizes the prosecuting attorney to file the charges before the statute of limitations has run and to inspect the records without having to petition the court.

This measure is effective on January 1, 2014.

### **A.B. 233 (Chapter 300) Appeal of Order Dismissing Genetic Marker Analysis**

Assembly Bill 233 authorizes a person to appeal a court order dismissing a post-conviction petition for genetic marker analysis of evidence in the custody of the state that may contain information relating to the investigation or prosecution that resulted in the conviction. An aggrieved person may appeal to the Nevada Supreme Court within 30 days after the entry of the order. The measure also provides that if a court orders a genetic marker analysis, the state may appeal the order to the Supreme Court.

### **A.B. 415 (Chapter 488) Advisory Commission on Administration of Justice**

This measure creates the Special Account for the Support of the Advisory Commission on the Administration of Justice. The Advisory Commission is required to review sentencing for all criminal offenses, the current system of parole, and potential legislation relating to offenders for whom traditional imprisonment is not considered appropriate, and report its findings to the chairs of the standing Senate and Assembly Committees on Judiciary not later than June 1, 2014.



### **A.B. 415 (Chapter 488) Justice Court Alternative Sentencing**

A.B. 415 also authorizes each county to establish a community court pilot project within any of the county's justice courts to provide alternatives to sentencing for persons charged with certain misdemeanors.

### **A.B. 422 (Chapter 362) Autopsy of Offender Who Dies in Custody**

Assembly Bill 422 requires the Director of the Department of Corrections, in consultation with the department's medical director and Inspector General, to request an autopsy of an offender who dies while in custody, if the next of kin consents or does not notify the director of an objection within 72 hours after the death.

This measure became effective on June 2, 2013.

### **A.B. 423 (Chapter 459) Presentence Investigation Report**

Assembly Bill 423 requires the Division of Parole and Probation of the Department of Public Safety to disclose the factual content of a presentence investigation report and the division's recommendations to the court, the defendant, the defendant's attorney and the prosecuting attorney, not later than a certain number of days before sentencing, unless the defendant waives the minimum period.

For the period beginning October 1, 2013, and ending February 28, 2014, the disclosure must take place at least seven working days before sentencing. For the period beginning March 1, 2014, and ending September 30, 2014, the disclosure must take place at least 14 working days before sentencing. And after October 1, 2014, the disclosure must take place at least 21 working days before sentencing.

### **S.B. 45 (Chapter 38) Sealing Records of Criminal History**

Senate Bill 45 relates to the sealing of certain records of criminal history. The measure revises information that must be included in a petition to seal all records relating to a conviction. In addition, the measure revises the definition of an "agency of criminal justice" to include a subunit of any governmental agency and clarifies that the sealing of all records of a conviction includes those in the custody of such an agency of criminal justice.

This bill became effective on July 1, 2013.

### **S.B. 169 (Chapter 229) Sealing Records of Conviction of Gross Misdemeanor**

Senate Bill 169 reduces the length of time a person must wait to petition for the sealing of all records relating to a conviction for any gross misdemeanor from seven years to five years from the date of release from actual custody or discharge from probation, whichever occurs later.

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## S.B. 243 (Chapter 252) State DNA Database

Senate Bill 243 establishes the State DNA Database, which is administered by the Forensic Science Division of the Washoe County Sheriff's Office. The measure provides that the Forensic Science Division shall act as a liaison between the Federal Bureau of Investigation (FBI) and other state agencies of criminal justice relating to Nevada's participation in the FBI's DNA Indexing

System – CODIS.

Senate Bill 243 provides the procedures for submitting a biological specimen to a forensic laboratory for genetic marker analysis when a person is arrested for a felony. If a court or magistrate determines that probable cause did not exist for the person's arrest, the biological specimen must be destroyed within five business days. The measure also provides that if a person is arrested for a felony and is not convicted, the person may make a written request to the Central Repository for Nevada Records of Criminal History to destroy the biological specimen and the DNA profile, and purge the DNA record from the forensic laboratory, the State DNA Database and CODIS.

The bill provides that any costs incurred relating to obtaining or destroying a biological specimen, or purging a DNA profile or record, are a charge against the county in which the person was arrested and must be paid from the county fund for genetic marker testing. The measure imposes an additional \$3 administrative assessment on a person convicted of a misdemeanor, gross misdemeanor or felony to help pay for the costs of obtaining specimens and conducting the analysis.

Finally, S.B. 243 establishes the Subcommittee to Review Arrestee DNA of the Advisory Commission on the Administration of Justice. The subcommittee will consider issues relating to DNA of arrested persons and submit a report and recommendations to the commission.

This measure became effective on July 1, 2013.

## S.B. 423 (Chapter 279) Offender Photo Identification Cards

Senate Bill 423 requires the Director of the Nevada Department of Corrections (NDOC) to provide an offender, upon release and request, with a photo identification (ID) card issued by the NDOC. The photo ID card must include the name, date of birth and a color picture of the offender. The measure further provides that an offender who is eligible to apply for a driver's license or ID card through the Nevada Department of Motor Vehicles may submit the photo ID card received from the

NDOC as proof of the offender's full legal name and age.

This bill became effective on May 30, 2013, for purposes of performing preparatory administrative tasks necessary to carry out the provisions of this measure, and becomes effective on January 1, 2014, for all other purposes.

## S.B. 478 (Chapter 346) Employment of Offenders

Senate Bill 478 requires the Director of the Department of Corrections to obtain a personal guarantee or surety bond and a detailed written analysis from a private employer before entering into any contract with the employer for the employment of offenders. The analysis must cover the estimated impact of the contract on private industry in Nevada.

The measure also provides that if any state-sponsored program for vocational training or employment of offenders that does not include a contract with a private employer incurs a net loss for two consecutive fiscal years, the director must appear before the Committee on Industrial Programs, explain the reasons for the loss, provide a plan for the generation of profit in the next fiscal year and, if the program does not generate a profit in the third fiscal year, take appropriate steps to resolve the issue.

Senate Bill 478 requires the director to submit:

- A report to the Committee on Industrial Programs identifying the impacts of any new program for the employment of offenders on private employers and labor;
- Any contract related to the employment of offenders to the State Board of Examiners for approval;
- A report every five years to the Director of the Legislative Counsel Bureau for distribution to the Committee on Industrial Programs including an analysis of existing contracts with private employers for the employment of offenders and the potential impact of those contracts on private industry in Nevada; and
- A report to each meeting of the Interim Finance Committee identifying any accounts receivable from a program for the employment of offenders.

This measure became effective on July 1, 2013.

## S.B. 519 (Chapter 501) Offender's Eligibility for Medicaid

Senate Bill 519 authorizes the Director of the Department of Corrections, or his or her designee, to apply for a determination of eligibility for Medicaid on behalf of an offender, after informing the offender.

This measure became effective on June 11, 2013.

## Crime and Punishment

### A.B. 55 (Chapter 110) Embezzlement from Older or Vulnerable Person

Assembly Bill 55 imposes enhanced penalties for attempting or conspiring to commit embezzlement or obtain money or property of a value of \$650 or more by false pretenses against a person who is 60 years of age or older or a vulnerable person.

### **A.B. 67 (Chapter 426) Sex Trafficking**

Assembly Bill 67 defines the crime of sex trafficking separately from the crime of pandering. The bill provides that a person who is guilty of sex trafficking of an adult has committed a category B felony, a person who is guilty of sex trafficking of a child has committed a category A felony, and the court may not grant probation to or suspend the sentence of a convicted person. The consent of a victim is not a defense in a sex trafficking prosecution, nor is the allegation that the defendant did not know or made a reasonable mistake concerning the victim's age.

Assembly Bill 67 authorizes a court to order a videotaped deposition of a victim of sex trafficking and establishes a rebuttable presumption that good cause exists for such an order. The bill authorizes the court to allow a videotaped deposition to be used as testimony at trial if the court determines the victim is unavailable as a witness. This measure also includes sex trafficking within the meaning of "crime against a child" and "sexual offense," for purposes of the registration of sex offenders, and designates an offender convicted of an offense involving sex trafficking against a child a Tier II offender.

Assembly Bill 67 authorizes a victim of sex trafficking or human trafficking to bring a civil action against a person who caused or profited from the act of trafficking. The plaintiff may recover regular, compensatory, and punitive damages. The bill also includes victims of sex trafficking within various statutes that provide aid to victims of crime, including compensation, confidentiality, fictitious addresses, restitution and other types of aid.

The bill makes other related changes to the statutes on criminal procedure, crimes and punishments, and grants the Attorney General concurrent jurisdiction to prosecute any offense involving pandering and sex trafficking, without leave of the court.

This measure became effective on July 1, 2013.

### **A.B. 97 (Chapter 292) Habitual Criminal Charge**

Assembly Bill 97 requires a district attorney to file a habitual criminal charge not less than two days before the start of the trial on the primary offense, if the charge is filed separately from the primary offense. The bill authorizes the defense and prosecution to come to a different agreement, authorizes the court to order a time extension for good cause and also authorizes the prosecution to amend or supplement a habitual criminal count at any time before the sentence is imposed.

### **A.B. 102 (Chapter 120) Organized Retail Theft**

Assembly Bill 102 defines the crime of organized retail theft as intentionally committing, alone or with others, a series of thefts of retail merchandise against one or more merchants, with the intent to return or resell the merchandise for value.

### **A.B. 116 (Chapter 294) Accessory to Felony/Gross Misdemeanor**

Assembly Bill 116 adds concealing and aiding in the destruction or concealment of material evidence to the acts that make a person an accessory to a felony. The bill also adds the domestic partner of a principal offender to the list of persons who

are not considered accessories after the commission of a felony or gross misdemeanor. The bill removes brothers, sisters, parents, grandparents, children and grandchildren of a principal offender from the list of persons who may not be considered accessories after the commission of a felony, and it provides that such persons who are accessories are guilty of a gross misdemeanor.

### **A.B. 146 (Chapter 354) Holding Minor in Involuntary Servitude**

Assembly Bill 146 provides that a person who provides care for a minor and knowingly obtains labor or services by causing or threatening to cause serious harm or by engaging in a pattern of conduct resulting in physical injury, sexual abuse or sexual assault, or benefits financially from such labor or services, is guilty of holding a minor in involuntary servitude, a category A felony. The bill specifies that the consent of the victim is not a valid defense in a prosecution for this crime, and it clarifies that nothing in the bill prohibits a parent or guardian of a child from requiring the child to perform common household chores under the threat of reasonable discipline.

### **A.B. 194 (Chapter 133) Willful/Malicious Injuring of Real/Personal Property**

Assembly Bill 194 provides that holding a leasehold interest in real property destroyed or injured is not a defense to the crime of willfully and maliciously injuring the real or personal property of another.

### **A.B. 212 (Chapter 385) Prisoner Possessing Portable Telecommunications Device**

Assembly Bill 212 prohibits a prisoner in a local jail from possessing or having custody of a portable telecommunications device. If the prisoner is in custody for a felony, a violation of this prohibition is a category D felony. If the prisoner is in custody for a misdemeanor or a gross misdemeanor, a violation is a misdemeanor or gross misdemeanor, respectively.

If a person is convicted of possessing a portable telecommunications device in a local jail and the underlying charge for which the person was in lawful custody or confinement is subsequently reduced, declined for prosecution or dismissed, the measure authorizes the person to request a modification of the sentence. The bill also clarifies that a person does not have the right to a modification of a sentence, and the granting or denial of a request does not establish a basis for any cause of action against certain parties, including the state.

### **A.B. 352 (Chapter 202) Hoax Bomb**

Assembly Bill 352 prohibits a person from knowingly advertising, making, possessing, purchasing, selling or transporting a hoax bomb with intent to:

- Make a reasonable person believe it is an explosive or incendiary device;

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- Cause alarm or reaction by an employee, officer, or volunteer of a fire or law enforcement agency; or
- Cause the evacuation of a building, whether or not a threat is conveyed.

The bill provides that a violation of this prohibition is a gross misdemeanor or, if used to cause the evacuation of a building, a category E felony or, if used in furtherance of a felony, a category C felony.

## **A.B. 377 (Chapter 387) Felony Sexual Conduct with Pupil**

Assembly Bill 377 provides that a person who was employed or volunteering in a position of authority at a school and who has sexual conduct with a pupil is guilty of a felony under the following circumstances:

- The pupil was enrolled in or attending the school at which the person was employed or volunteering; or
- The person had contact with the pupil in the course of performing his or her duties as an employee or volunteer.

The measure provides that if the pupil is 16 or 17 years of age, the crime is a category C felony, and if the pupil is 14 or 15 years of age, the crime is a category B felony.

This measure became effective on July 1, 2013.

## **A.B. 415 (Chapter 488) Burglary; Lodging Without Permission**

Assembly Bill 415 provides that the crime of burglary does not include the act of entering a commercial establishment during business hours with the intent to commit petit larceny, unless the person who enters has two or more previous convictions for petit larceny within the last seven years or a felony conviction. Further, the bill prohibits a person, under certain circumstances, from lodging in any building, structure or place without permission if the property is the subject of a notice of default and election to sell or is placed on a registry of vacant, abandoned or foreclosed property.

## **A.B. 444 (Chapter 469) Legislative Audit of Fiscal Costs of Death Penalty**

Assembly Bill 444 requires the Legislative Auditor to conduct an audit of the fiscal costs of the death penalty. The Legislative Auditor must present a final written audit to the Audit Subcommittee of the Legislative Commission no later than January 31, 2015.

The bill became effective on June 10, 2013.

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## S.B. 37 (Chapter 97) Crimes relating to Scrap Metal or Utility Property

Senate Bill 37 provides that a person who willfully or maliciously removes, damages or destroys any property maintained by a state or local government to obtain scrap metal is guilty of a crime.

In addition, the measure expands the definition of “utility property” to include sewer service, storm water collection and disposal service, and makes it a crime to intentionally steal, take and carry away utility property. Finally, the measure requires a person who is convicted of a crime relating to obtaining scrap metal or utility property, in addition to any other penalty, to perform 100 hours of community service for a first offense, 200 hours of community service for the second offense and up to 300 hours for any third or subsequent offense.

This bill became effective on May 23, 2013.

## S.B. 71 (Chapter 64) Consecutive Sentencing

Senate Bill 71 provides that when a court imposes consecutive sentences, those sentences must be aggregated if the crimes were committed on or after July 1, 2014, unless any of the sentences includes a sentence of life without the possibility of parole or death. In addition, this measure authorizes a prisoner who is serving consecutive sentences to request the Director of the Department of Corrections to aggregate any remaining sentences for which parole has not previously been considered. The aggregation of sentences does not apply to sentences for offenses entered into at different times. This measure provides that, for offenses committed and sentences aggregated on or after July 1, 2014, any credits earned to reduce sentences may only reduce the minimum term or minimum aggregate term imposed by the sentence by not more than 58 percent.

This bill is effective on July 1, 2014.

## S.B. 103 (Chapter 69) Crimes relating to Sexual Abuse - Period of Limitations

Senate Bill 103 revises the period of limitation for crimes relating to the sexual abuse of a child. The measure provides that an indictment must be found or an information or complaint must be filed before the victim of child sexual abuse is:

1. Thirty-six years old, if the victim discovers, or reasonably should have discovered, the sexual abuse by that age; and
2. Forty-three years old if the victim does not discover and

reasonably should not have discovered the sexual abuse by 36 years of age.

The provisions of this measure apply to a person who:

1. Committed the sexual abuse of a child before October 1, 2013, if the applicable period of limitation has commenced but has not yet expired on October 1, 2013; or
2. Commits the sexual abuse of a child on or after October 1, 2013.

## S.B. 139 (Chapter 22) Crimes Committed Because of Person's Gender Identity or Expression

Senate Bill 139 adds crimes committed because of a person's actual or perceived gender identity or expression to the list of crimes for which:

1. An offender is subject to an additional penalty;
2. An offender may be charged with a gross misdemeanor for an otherwise misdemeanor offense; and
3. A victim may bring a civil action against the offender.

The measure expands the list of crimes subject to these additional penalties based upon categories used by the Federal Bureau of Investigation to compile statistics concerning hate crimes.

Finally, the bill adds crimes committed on the basis of gender identity or expression to the data collected and analyzed by the Program for Reporting Crimes within the Department of Public Safety.



## S.B. 169 (Chapter 229) Limitations of Punishment by Imprisonment for Gross Misdemeanor

Senate Bill 169 limits punishment by imprisonment in the county jail for persons convicted of a gross misdemeanor to no more than 364 days. In addition, this measure authorizes a person convicted of a gross misdemeanor before October 1, 2013, and sentenced to a one-year term in jail to petition the court for an order modifying the original sentence to a term of 364 days, for good cause shown.

## S.B. 189 (Chapter 88) Enhanced Penalties for Assault and Battery

Senate Bill 189 expands the definition of a “provider of health care” to include a medical student, dental student, dental hygienist student and pharmacy student for purposes of enhanced penalties for the crimes of assault and battery against such a person.

## S.B. 224 (Chapter 373) Driving Under Influence – Fee Imposed

Senate Bill 224 imposes a fee of \$100, in addition to any other penalty, if a person is convicted of driving under the influence of intoxicating liquor or a controlled substance. The money collected from the fee must be used to support a specialty court program established to facilitate testing, treatment and oversight of certain persons who suffer from a mental illness or abuse alcohol or drugs. The measure provides for the imposition of community service if a defendant is unable to pay the fee.

This bill became effective on July 1, 2013, and expires by limitation on June 30, 2015.

## S.B. 237 (Chapter 329) Graffiti of Protected Site

Senate Bill 237 revises the definition of a “protected site” in Nevada to include any site, building, structure, object or district listed in:

- The register of historic resources of a community;
- The State Register of Historic Places pursuant to Nevada Revised Statutes 383.085; or
- The National Register of Historic Places.

In addition, a protected site includes any such resource over 50 years in age located in a state or municipal park.

Senate Bill 237 also changes the penalty for a graffiti offense on a protected site from a category C felony to a category D felony.

## S.B. 388 (Chapter 261) Crime of Luring Child; Revision of References to Crime Against Nature

Senate Bill 388 repeals the crime of solicitation of a minor to engage in acts constituting the “infamous crime against nature.” The measure revises the definition of “sexual conduct” and provides that the crime of luring a child includes contacting or communicating with the person believed to be a child with the intent to solicit that person to engage in sexual conduct.

The measure also removes reference to the “infamous crime against nature” and replaces it with a reference to “sexual activity” for provisions relating to certain offenders in Nevada’s Department of Corrections. Finally, this measure removes the reference to the “infamous crime against nature” for provisions relating to the Nevada National Guard.

# Juvenile Crime and Delinquency

## A.B. 202 (Chapter 483) Juveniles Charged as Adults

Assembly Bill 202 grants jurisdiction to the juvenile court over a child charged with committing murder or attempted murder, if the child was under the age of 16 when the crime

was committed. The bill also authorizes a child who has been certified for transfer to adult court to petition the juvenile court for temporary placement in a facility for the detention of children during the pendency of the adult proceedings. In addition, the measure provides that a child may be certified for criminal proceedings as an adult upon a motion by the district attorney and after a full investigation if the child:

- Is charged with an offense that would have been a felony if committed by an adult and was 14 years of age or older at the time the offense was allegedly committed; or
- Is charged with murder or attempted murder and was 13 years of age or older when the murder or attempted murder was committed.

Assembly Bill 202 also requires the Legislative Committee on Child Welfare and Juvenile Justice to create a task force to study certification of juveniles as adults, housing of youthful offenders convicted of crimes as adults and related subjects, and to submit a report and recommendations for legislation to the 78th Session of the Nevada Legislature.

The provisions relating to the Legislative Committee on Child Welfare and Juvenile Justice are effective on July 1, 2013. The sections of the measure relating to certification of a child as an adult under certain circumstances and those granting jurisdiction to the juvenile court over a child charged with committing murder or attempted murder, if the child was under the age of 16 when the crime was committed, are effective on October 1, 2014. The remaining sections of the bill became effective on October 1, 2013.

## A.B. 207 (Chapter 422) Placement in County Jail for Parole/Probation Violation

Assembly Bill 207 limits to 30 days the period for which the juvenile court may order a person who is at least 18 years of age but less than 21 years of age, and who is subject to the jurisdiction of the juvenile court, to be placed in county jail for a violation of probation or parole.

## S.B. 31 (Chapter 155) Sharing of Juvenile Justice Information

Senate Bill 31 authorizes a director of juvenile services, chief juvenile probation officer or the Chief of the Youth Parole Bureau to share appropriate juvenile justice information, upon request, for purposes of ensuring the safety, permanent placement, rehabilitation, educational success and well-being of a child. Information may be shared with the child’s attorney, the district attorney, a court appointed special advocate and other specified persons. Juvenile justice information is defined as information directly related to any child who is subject to the jurisdiction of the juvenile court.

The measure provides that the information released is confidential. If the information is requested for purposes of bona fide research on juvenile justice, the information must be provided in the aggregate, without personal identifying information. The measure also stipulates that the information may not be used to deny a child access to any service for which the child is eligible, and it authorizes an agency that provides child welfare services to charge a reasonable processing fee.

This measure became effective on July 1, 2013.



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## **S.B. 107 (Chapter 324) Facility Use of Corrective Room Restriction**

Senate Bill 107 authorizes a state, local or regional facility for the detention of children to subject a child to corrective room restriction only if other less-restrictive options have been exhausted and only for specific purposes. The facility must conduct a safety check on a child subjected to corrective room restriction at least once every 10 minutes, and it may not place a child on corrective room restriction for more than 72 consecutive hours.

Senate Bill 107 defines “corrective room restriction” as the confinement of a child to his or her room as a disciplinary or protective action. The measure requires each facility to submit a monthly report concerning children subjected to corrective room restriction to the Juvenile Justice Programs Office of the Division of Child and Family Services in the Department of Health and Human Services. The measure also directs the Advisory Commission on the Administration of Justice to conduct a study concerning detention and incarceration during the 2013-2014 Interim.

## **S.B. 108 (Chapter 191) Various Revisions relating to Juvenile Justice**

Senate Bill 108 provides that a child who violates a county or municipal ordinance related to curfews or loitering is to be adjudicated by a juvenile court as a child in need of supervision rather than as a delinquent child.

The measure decreases from eight to four days the length of time a child may remain in detention or shelter care pending the filing of a petition by district attorney in juvenile court, excluding Saturdays, Sundays and holidays. The measure allows a juvenile court, for good cause shown by the district attorney, to authorize an additional four days for the filing of the petition, excluding Saturdays, Sundays and holidays.

Finally, if a juvenile court finds that a suspension or delay in the issuance of a driver’s license of a child causes severe or undue hardship to the child or the immediate family, the court may order the Department of Motor Vehicles to issue a restricted driver’s license to the child.

## **S.B. 177 (Chapter 326) Purchase/Possession/Use of Tobacco Products**

Senate Bill 177 authorizes a board of county commissioners to adopt an ordinance prohibiting a child who is under the age of 18 from purchasing or attempting to purchase tobacco

products, possessing or attempting to possess tobacco products, using tobacco products or falsely representing his or her age to purchase, possess or obtain tobacco products. A peace officer may detain a child for a violation of such an ordinance and issue a citation, but the officer must not take the child into physical custody. A citation may be issued to a child who is an occupant of a vehicle, but only if the violation is discovered when the vehicle is halted for another alleged violation or offense.

A child who violates a county ordinance is a child in need of supervision and may be ordered by the juvenile court to pay a fine of \$25 for the first offense, \$50 for the second offense and \$75 for the third or any subsequent offense. The court may also order the child to attend and complete a tobacco awareness and cessation program, and order the child or the parent or guardian of the child, or both, to pay the reasonable costs for the child to attend the program. The measure provides that for a third or subsequent offense, the juvenile court may order the suspension of the child’s driver’s license for at least 30 days, but not longer than 90 days. The court may also order a restriction on a driver’s license for a child who willfully fails to pay any fine or assessment related to a tobacco offense, and it may provide work and health care exemptions from the driver’s license restrictions.



## **S.B. 414 (Chapter 338) Transmitting Image of Bullying via Electronic Communications Device**

Senate Bill 414 prohibits a minor from knowingly and willfully using an electronic communication device to transmit or distribute an image of bullying committed against a minor with the intent to encourage, further or promote bullying and to cause harm to the minor. The measure provides that for the first violation, the minor shall be identified as a child in need of supervision, not a delinquent child. For any second or subsequent violation, the measure provides that it is a delinquent act, and the court may order the detention of the minor.

## **Pardons, Parole and Probation**

### **A.B. 40 (Chapter 109) Automated Victim Notifications**

Assembly Bill 40 authorizes the State Board of Parole Commissioners to enter into an agreement with the manager of an automated victim notification system in order to provide required notice when an offender requests to serve a term of residential confinement, the board fixes the date of a parole hearing or the board makes a final decision on the parole of an offender.

This measure became effective on May 24, 2013.

### **A.B. 43 (Chapter 9) Earned Credits for Good Behavior/Labor/Study**

Assembly Bill 43 provides that an offender sentenced to

prison may not earn more credits for good behavior, labor or study than the amount required to expire his or her sentence. The bill also states that this limitation must not be construed as retroactively reducing earned credits, if doing so would be unconstitutional under the Constitution of the United States or the Nevada Constitution.

This measure became effective on May 10, 2013.

### **A.B. 91 (Chapter 352) Program of Regimental Discipline**

Assembly Bill 91 allows a court to order a defendant to a program of regimental discipline if the defendant was convicted of a felony involving an act of violence and the district attorney stipulates to the defendant's eligibility for the program. The bill also allows only those defendants who have not been incarcerated in jail for more than a cumulative total of 365 days and who have never been incarcerated in prison, to be placed in a program of regimental discipline.

Assembly Bill 91 also requires the Director of the Department of Corrections to make all reasonable efforts to accommodate a defendant in a program of regimental discipline and to consider the facts and circumstances of the offense when determining the defendant's eligibility.

### **S.B. 32 (Chapter 54) Various Revisions relating to the Department of Corrections and Division of Parole and Probation**

Senate Bill 32 revises the powers and duties of the Director of the Department of Corrections (DOC) and makes various changes related to the Department of Public Safety (DPS). The measure authorizes the Director of the DOC to permit the distribution of money, from any money deposited in the individual account of an offender from any source other than the offender's wages, to a governmental entity for certain deductions.

When a request for the transfer of a person detained in a local law enforcement facility is received from a sheriff or chief of police of a city, S.B. 32 requires the director to determine if the transport will be made by the staff of the DOC or staff of the county sheriff or the chief of police who requested the transfer.

Senate Bill 32 provides that an offender in custody with the Division of Parole and Probation of the DPS for residential confinement cannot reside in another state. In addition, the measure expands eligibility for participation in a program of residential confinement for certain abusers of alcohol or drugs who commit certain violations of law relating to operating or being in actual physical control of any vessel under power or sail.

The measure authorizes the Division of Parole and Probation, under certain circumstances, to receive and distribute restitution to victims. Finally, the measure repeals provisions governing the Prison Revolving Account.

This bill became effective on May 22, 2013.

### **S.B. 71 (Chapter 64) Parole of Certain Prisoners**

For cases where a prisoner was less than 16 years of age at the time of the offense for which he or she was imprisoned, this measure provides that the State Board of Parole Commissioners

is not required to release the prisoner if he or she is determined to be a high risk to reoffend in a sexual manner or there is a reasonable probability that the prisoner will be a danger to public safety while on parole. Additionally, if a prisoner who was less than 16 years of age at the time of an offense is paroled and then that parole is revoked, that prisoner must not be considered again for parole under these provisions of the law.

This bill is effective on July 1, 2014.

### **S.B. 101 (Chapter 145) Department of Alternative Sentencing**

Senate Bill 101 expands the supervision of a department of alternative sentencing to include a "supervised releasee" who is a person charged with or convicted of a misdemeanor, gross misdemeanor or felony and who has been released from custody before trial or sentencing, subject to the conditions imposed by the court. The measure also revises the qualifications of the chief of a department of alternative sentencing to include experience in pre-trial or pre-sentence release.

This bill became effective on July 1, 2013.

### **S.B. 104 (Chapter 70) Assessment of Prisoners Convicted of Sexual Offenses**

Senate Bill 104 replaces the requirement for prisoners convicted of sexual offenses to be evaluated by a panel with a requirement for such prisoners to be assessed by the Nevada Department of Corrections (NDOC) before their parole is granted or continued. The measure requires the NDOC to assess such prisoners with a currently accepted standard of assessment that will return a risk level to reoffend in a sexual manner using low, moderate, or high categories.

The completed assessment must be provided to the State Board of Parole Commissioners not sooner than 120 days before a scheduled parole hearing and the findings must be considered by the board before determining whether to grant or revoke the parole of the prisoner.

The measure requires training for any employee of the NDOC who completes the assessment, and it requires procedures be established to ensure the accuracy of each completed assessment and correct any errors prior to submitting the assessment to the parole board.

This bill is effective became July 1, 2013.



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## Traffic Laws

### A.B. 21 (Chapter 159) Open Containers of Alcoholic Beverages in Motor Vehicles

Assembly Bill 21 clarifies that an occupant of a motor vehicle designed, maintained or used primarily for the transportation of persons for compensation, or the occupant of the living quarters of a house coach or house trailer, other than the driver of such a vehicle, is allowed to possess an open container of an alcoholic beverage while that vehicle is upon a state highway.



### A.B. 117 (Chapter 122) Proceeding into Intersection Against Red Traffic Signal

Assembly Bill 117 allows a person driving a motorcycle, moped, or trimobile, or riding a bicycle or an electric bicycle, to proceed into an intersection against a red traffic signal if:

- The person stops as required by the signal;
- The person waits for two complete cycles of the lights or lighted arrows and the signal does not change because of a malfunction or the failure of the signal to detect the presence of the vehicle;
- No other device at the place prohibits a turn, if applicable; and
- The person yields the right-of-way to pedestrians and other traffic proceeding as directed by the signal at the intersection.

The bill also provides that, if the person commits certain violations while proceeding into an intersection against a red signal that result in an injury to another person, the violations create a rebuttable presumption of facts necessary to impose civil liability.

### S.B. 343 (Chapter 188) Large All-Terrain Vehicles

Senate Bill 343 creates a new category of off-highway vehicle (OHV). The bill requires the owner of a large all-terrain vehicle to provide proof of insurance that meets the requirements of insurance on an automobile. The bill defines "large all-terrain vehicle" and provides for a new registration sticker or decal distinguishable from the sticker or decal of a standard off-highway vehicle. Additionally, the owner of a large all-terrain vehicle can register either as a standard OHV (as currently required), or the owner can choose the new designation, which allows him or her to go on certain roads designated by a city or county.

## Victims of Crime

### A.B. 40 (Chapter 109) Automated Victim Notifications

Assembly Bill 40 authorizes the State Board of Parole Commissioners to enter into an agreement with the manager of an automated victim notification system in order to provide required notice when an offender requests to serve a term of residential confinement, the board fixes the date of a parole hearing, or the board makes a final decision on the parole of an offender.

This measure became effective on May 24, 2013.

### A.B. 307 (Chapter 142) Treatment Costs Incurred by Victim of Sexual Assault

Assembly Bill 307 requires a county to pay any costs incurred by a hospital for a forensic medical examination of a victim of sexual assault. The bill also specifies that any costs incurred by a county for medical care provided to a victim within 72 hours after arriving for treatment and any costs for a forensic medical examination must be charged to the county where the offense was committed, and that the filing of a police report must not be a prerequisite to qualifying for a forensic medical examination.

Assembly Bill 307 also requires a victim of sexual assault to file a police report or submit to a forensic medical examination in order for the victim or the victim's spouse, relative or close friend to be eligible for any additional treatment at county expense for physical injuries or emotional trauma suffered as the result of the sexual assault.

### **A.B. 311 (Chapter 427) Contingency Account for Victims of Human Trafficking**

Assembly Bill 311 creates the Contingency Account for Victims of Human Trafficking to be administered by the Director of the Department of Health and Human Services. The bill authorizes a nonprofit agency or a local or state agency to apply to the director for an allocation of money to be used for establishing or providing programs or services for victims of human trafficking. The bill also requires the existing Grants Management Advisory Committee to review the applications and make recommendations to the director concerning allocations of money from the contingency account.

This measure became effective on July 1, 2013.

### **S.B. 26 (Chapter 51) Victim Information Notification Everyday (VINE) System**

Senate Bill 26 creates within the Attorney General's Office the Victim Information Notification Everyday (VINE) System to consist of a toll-free telephone number and website through which crime victims and members of the public may register to receive automated information and notification concerning changes in the custody status of an offender. The Attorney General is directed to create a governance committee for the system, which may adopt regulations for its operation and oversight. To the extent that funds are available, each sheriff and chief of police, the Department of Corrections, the Department of Public Safety and the State Board of Parole Commissioners shall cooperate with the Attorney General to establish and maintain the system.

This bill became effective on July 1, 2013. ■

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**AUTHOR'S BIOGRAPHY ON PAGE 5.**